

2001-014-884

July 2, 2001

General Services Administration
FAR Secretariat (MVP)
1800 F Street, NW
Room 4035
Washington, DC 20405
Attention: Ms. Laurie Duarte

RE: FAR Case 2000-014 -- Contractor Responsibility, Labor Relations Costs, and Costs
Relating to Legal and Other Proceedings -- Revocation

Dear Ms. Duarte:

BAE SYSTEMS, Integrated Defense Solutions Inc. appreciates the opportunity to comment on the proposed rule, FAR Case 2000-014 (revocation of the so-called "Blacklisting" Regulations). BAE SYSTEMS Integrated Defense Solutions strongly supports the revocation of these regulations. We consider the proposed rule to be ill considered and unnecessary, and but one more example the legislative/regulatory charade of implementing regulations with seemingly good intent, but lacking the precision and capacity to deliver on those intentions. Furthermore, current regulatory coverage provides the Government with more than adequate avenues to protect itself against a non-responsible contractor, including many directed specifically at the conduct cited in the proposed regulations. This rule simply complicates the regulatory environment, creates increased compliance costs for contractors, provides little clear benefit to the Government and, in fact, is likely to increase the costs Government will have to pay for its supplies.

We wish to make the following points in support of revocation of the rule:

- The rule creates burdensome and unnecessary record keeping requirements and the necessity for redundant compliance programs. The increased costs of such compliance is unjustified, since little is to be gained by the regulations, except the increased possibility of arbitrary and unjustified punitive actions. Setting up the mechanisms for compliance would be a lengthy and – from a practical viewpoint – virtually impossible task. For large companies, it would require almost constant "sweeps" of the company for the most minor of possible infractions in multiple functional areas and diverse geographical locations. For smaller companies currently doing business with the Government, it provides one more reason to discontinue such activity, while at the same time erecting an additional barrier to those small companies not currently doing business with the Government, making it even more undesirable to do so.
- Contracting Officers are put into an almost impossible position, being asked to understand the relative impact of non-procurement regulations for which they have not been trained nor have the additional resources to assess.

7/9

General Services Administration
Attention: Laurie Duarte
July 2, 2001
Page 2

014-884

- There is no need for the rule since enforcement mechanisms are in place already by the agencies charged with enforcing the multiple regulations covered by the rule.
- It allows Contracting Officers to deny contractors access to federal contracts without the Constitutional protection of due process, since contractors could be found non-responsible on only the allegation of a violation.
- As the determination of compliance is wholly subjective, it can easily lead to highly inconsistent application and, could conceivably be used as a lever in negotiations or in a punitive manner against a contractor where there is a minor disagreement on something as innocuous as a consumer protection dispute. Because the determination is subjective, it provides unions and other third parties with inappropriate influence over the process of federal contracting, since a mere unsubstantiated allegation of non-compliance from a third-party could be used to deny a contract.

We appreciate the opportunity to submit these comments. If you wish to discuss any of these comments, please do not hesitate to contact me on (512) 929-2190 or via e-mail at alan.james@baesystems.com

Very truly yours,



A. S. James

Vice-President, Contracts and Subcontracts
BAE SYSTEMS Integrated Defense Solutions